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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,068	09/30/2003	Makoto Tsutsue	60188-664	1409
7590 01/11/2006				
MCDERMOTT, WILL & EMERY 600 13th Street, N.W. Washington, DC 20005-3096		EXAMINER PHAM, LONG		
		ART UNIT 2814 PAPER NUMBER		

DATE MAILED: 01/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/674,068	Applicant(s) TSUTSUE ET AL.	
	Examiner Long Pham	Art Unit 2814	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 11-25, 27 and 28 is/are pending in the application.
- 4a) Of the above claim(s) 1-5 and 11-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 20-25, 27 and 28 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Rejections and/or objections as previously applied

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 20 as currently amended, 21-25 and 27-28 as previously presented, are rejected under 35 U.S.C. 103(a) as being unpatentable over Ward et al. (publication 2001-223339) in combination with Akiyama (US publication 2003/0057558).

With respect to currently amended claim 20 and previously presented claims 21-25 and 27-28, Ward et al. in combination with Akiyama teach the invention as claimed. **See the contents of the office action dated 10/06/05.**

Response to Arguments

Applicant's arguments filed 11/04/05 have been fully considered but they are not persuasive. See below.

In response to the applicant's arguments on pages 7 and 8 of the amendment dated 11/04/05, it is submitted that the motivation for incorporation of teaching of forming an upper wire on an upper electrode of a capacitor and connecting the upper wire to a lower wire is to prevent unwanted etching as taught in [0010] of Akiyama. Further, it is submitted that since present claims recite "comprising", they don't preclude the inclusion of other features not relied on such as wire extending to equal length to prevent unwanted etching.

In response to the applicant's arguments in the paragraph at the bottom of page 9 of the amendment dated 11/04/05, it is submitted that the fact that the applicants have a different reason or advantage resulting from doing what the relied prior art suggested doing is not indicative or demonstrative of unobviousness. In Re

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Kronig 190 USPQ 425,428 (CCPA 1976); In Re Lintner 173 USPQ 560 (CCPA 1972).

In response to the applicant's challenges of the examiner's Official Notice.

Ward et al. fig. 1 shows the formation of electrode 146 and wires (portions on both sides of 164 are of the same conductive material.

Fig. 7 of the applicant's admitted prior art shows wires 405 a,b,c,d, e are separated by insulators 403 a,b,c, d.

DeMaria et al. (US patent 4,663,746) shows the use of copper electrode is well-known. See col. 4, lines 30-35.

Chatterjee (US patent 4,889,832) shows that protection oxide 60 is formed over the wires or metal contact or interconnects 40, 42, 52. See fig. 3 and associated text.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Long Pham whose telephone number is 571-272-1714. The examiner can normally be reached on Mon-Frid, 10am to 5pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wael Fahmy can be reached on 571-272-1705. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Long Pham

Primary Examiner

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LP